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**SM**

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/455,664 12/07/99 MELGAARD

K PHB-34-305

EXAMINER

IM22/0801

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ART UNIT

PAPER NUMBER

1723

DATE MAILED:

08/01/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Advisory Action**

Application No.

09/455,664

Applicant(s)

MELGAARD ET AL.

Examiner

Marianne S. Ocampo

Art Unit

1723

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 July 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see advisory action attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: 8.Claim(s) rejected: 2-7 & 9-12.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

## **ADVISORY ACTION ATTACHMENT**

### ***Response to the Proposed Amendment***

1. The proposed amendment filed on 7-23-01, in which claim 12 had been amended, does not place the application in better form for appeal and does not place the application in condition for allowance because the references, namely, Trably (GB 2284563) and Heiligman (US 5,652,008), applied against claim 12 in the final rejection would still be applicable to the proposed amended claim 12. The addition of the proposed claim limitation "said scale collector having a surface to which scale is attracted" is not sufficient to overcome the prior art. Both Trably and Heiligman disclose and teach a scale collector which has a surface onto which scale can be attracted to/trapped by. In particular, Trably disclosed a mesh/filter cloth element (14' or 14) which had a surface onto which scale can be attracted, as well as a treatment substance (15) which can also trap scale (see fig. 1 and page 4, last three lines and page 6 - 7). With respect to Heiligman, Heiligman teaches a mesh element 48 and a filter media 52 which can both act as a scale collector which had a surface for the scale to be attracted (see fig. 3 and cols. 3 - 4).

2. See 37 CFR 1.193(a)(2) which provides for the inclusion of the proposed rejections detailed below in the Examiner's Answer if applicant elects to file an appeal to the Board of Patent Appeals and Interferences in this proceeding. To be complete, such rejections must be addressed in any brief on appeal.

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3. Upon appeal and entry of the amendment:

Claims 2 – 7 and 9 - 12 would be rejected for the reasons set forth in **pages 2 – 6** of the final Office Action mailed on 4-23-01.

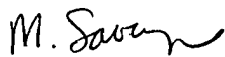
***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne S. Ocampo whose telephone number is (703) 305-1039. The examiner can normally be reached on Mondays to Fridays from 8:00 A.M. to 4:30 P.M..

5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3599 for regular communications and (703) 872-9311 for After Final communications.

6. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

M.S.O.  
July 31, 2001

  
**MATTHEW O. SAVAGE**  
**PRIMARY EXAMINER**